



MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC # **056-2011**

LETTER TO COMMISSION

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: March 8, 2011

SUBJECT: Red Light Camera Photo Enforcement Program Update

The purpose of this LTC (Letter to Commission) is to provide an update on the status of the Red Light Camera Photo Enforcement Program.

As you may recall, the City's Red Light Camera Photo Enforcement Program went into effect on April 15, 2010, pursuant to the authority of Article XI., entitled "Dangerous Intersection Safety" of Chapter 106 of the Miami Beach City Code. Subsequently, the Florida Legislature enacted the Mark Wandall Traffic Safety Act, which authorized the City of Miami Beach to commence the enforcement of red light violations pursuant to Section 316.0083 of the Florida Statutes on July 1, 2010.

A total of 7,624 Notice of Violations have been issued between April 15, 2010 through December 31, 2010, and an approximate 86% pay rate per violation has been established. There have been 474 Uniform Traffic Citations (UTCs) issued based upon the failure to pay the Notice of Violations.

Data Analysis – Violations and Cases

Following is a table with detailed violation information by intersection:

YEAR TO DATE April 15-December 31, 2010				AVG ISSUED PER DAY	% REJECTED
LOCATIONS	TOTAL INFRACTIONS/VIOLATIONS				
	REVIEWED	ISSUED	REJECTED		
DADE BLVD - WASHINGTON AVE	4,190	2,143	2,047	8.27	49%
17 ST - WASHINGTON AVE - SB	1,866	388	1,478	1.50	79%
17 ST - WASHINGTON AVE - EB	1,939	491	1,448	1.37	76%
17 ST - ALTON RD - WB	284	261	23	1.01	8%
23 ST - PINETREE DR - SB	336	317	19	1.22	6%
CHASE AVE - ALTON RD - NB	4,358	2,488	1,870	9.61	43%
41 ST - PRAIRIE AVE	531	185	346	0.71	65%
INDIAN CREEK - 63 ST - SB	763	628	135	2.42	18%
INDIAN CREEK - 71 ST - NB	691	500	191	1.93	29%
INDIAN CREEK - ABBOTT AVE - SB	238	223	15	2.42	6%
TOTAL	15,196	7,624	7,572	29.44	50%

The percent of violations rejected in the above table identifies those potential violations, which upon review by the Miami Beach Police Department (MBPD), fail to meet the criteria for the issuance of a Notice of Violation.

Analysis of the data shows a high rejection rate, which can be attributed to the lower enforcement criteria that has been mandated by the Florida Legislature for right turns on red. The Mark Wandall Traffic Safety Act (effective July 1, 2010), requires enforcement of right turns on a red light only if the vehicle did not make the turn in a "careful and prudent" manner, which has significantly impacted enforcement of those individuals violating Florida Law.

Of those 474 UTCs, 203 cases have already been heard and 271 have no disposition yet. Review of the dispositions of the 474 UTCs shows that 50% (101 cases) were found guilty, 23% (47 cases) were dismissed, 2% (5 cases) were found not guilty and 25% (50 cases) adjudication was withheld; however, with these cases where adjudication is withheld, the fine was assessed.

In addition, another significant change with the transition to Florida State Statute has been the modification of the fine schedule, which changed from a total of \$125 per first violation (under City Ordinance) to \$158 per first violation, of which the City of Miami Beach only nets \$75.

The implementation of Red Light Camera Program is centered on public safety, with the intent to avoid crashes, injuries and death. A survey of the number of crashes at the red light camera intersections was conducted by the MBPD, and the total number of crashes has decreased by 14% (from 55 crashes to 47) when comparing 2009 and 2010. Since the inception of the program there has been a reduction in the number of crashes in 4 of the 10 camera locations, 4 intersections have remained that same, and 2 of the intersections have actually seen a slight increase in the number of crashes. In comparison to 2009, there were 2 additional crashes at the Dade Boulevard and Washington Avenue intersection, and 2 additional crashes at the 23rd Street and Dade Boulevard intersection in 2010.

Challenges

On August 24, 2010, the City was served with a Class Action Complaint for Civil Damages, Declaratory and Injunctive Relief (the "Class Action Complaint"). This Class Action Complaint asserts that the City of Miami Beach's Dangerous Intersection Safety Ordinance is an invalid exercise of municipal power, and is preempted under the Florida Uniform Traffic Control Law and the Florida Uniform Disposition of Traffic Infractions Act.

As a result, the Class Action Complaint further affirms that the City of Miami Beach has been unjustly enriched under the Ordinance, and that the City has improperly converted Plaintiffs' property (i.e., money) under the tort of conversion. The Plaintiffs are seeking injunctive and declaratory relief against the City, which would thereby invalidate the City's ordinance, rendering the issuance of any violations unlawful under the Florida Constitution and State law. As a result, fines collected for violations prior to July 1, 2010 are now held in escrow awaiting a decision from the courts. This lawsuit is currently being litigated by the Miami Beach City Attorney's Office.

The controversial nature of this mechanism of traffic enforcement has resulted in legal challenges throughout the various states and municipalities. The most recent is a motion before Broward County Circuit courts challenging the constitutionality of the Mark Wandall Traffic Safety Act. It has been alleged that Section 316.0083 is unconstitutional for violation of equal protection under the law, in that there are two separate criteria for right turn on red light violations one for red light cameras, and one for a police officers issuing a UTC. To be cited for a right turn on red light violation for a red light camera, the right turn must be careful and prudent. A police officer who issues a citation for a right turn on red must have observed the driver not come to a complete stop at the intersection prior to

Further, in Palm Beach County Court, a traffic hearing officer recently dismissed several red light camera Uniform Traffic Citations, because the photo of the offending vehicle license tag is not date or time stamped. The defense has argued, successfully, that the prosecution cannot establish the foundation to prove the tag belongs to the vehicle running the red light. The City's vendor, ACS Inc., has a time stamp on the video but not on the still photo of the license tag.

Currently, there are two (2) bills traveling through the Florida Legislature, which would prohibit the enforcement of red light violations via the photo enforcement program.

The Red Light Photo Enforcement Program being implemented throughout Miami-Dade County by various government entities are experiencing their own set of challenges. As you may have seen in recent media reports, municipalities across Miami-Dade, Broward and Palm Beach counties are expending more funds to run their programs than previously anticipated. The additional costs are attributed to issues pertaining to man hours for police officers and City attorneys prosecuting UTC violations in County Court. In addition, revenue based upon the cost sharing with the State of Florida under the Mark Wandall Traffic Safety Act. To that effect, municipalities around the state have realized far less revenue than originally projected.

As a result of the new fine schedule, court costs, to date, the City of Miami Beach has collected \$251,080.20, with net revenue of \$192,081.52.

Conclusion

The MBPD has identified the need to move at least two of the cameras to other intersections within the City, which are deemed more dangerous. The low volume of citations indicates that drivers generally are complying with traffic laws at those intersections. In addition, the contract with ACS, Inc. will be placed on the agenda for action in order to reflect the new State law and other provisions.

Please contact me if you have any questions or need any additional information.

JMG/DM/MG

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